

### **REMARKS**

Upon entry of the foregoing amendment, Claims 13-17 and 19 are pending, with claim 13 being independent.

The Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn in view of the above amendment and following remarks.

The Examiner objected to the drawings as not showing every feature of the invention specified in the claims. Applicant respectfully submits that the amended claims obviate the Examiner's objections.

The Examiner rejected claims 13-17 and 19 under 35 U.S.C. 112, first paragraph. The claims have been amended to clarify the claimed invention. Applicant respectfully submits that the amendments render the rejection moot.

Claims 13-17 stand rejected as obvious over Hager et al. in view of Ota et al. or Carew et al. Claim 13 recites that the head portion includes an elliptical cross section. Hager et al. depicts a head portion that is substantially circular, as shown in FIG. 7 of that patent. Neither Ota et al. nor Carew et al. depict a bottle with a head portion. Furthermore, Applicant notes that the elliptical shape of the head portion is not mere ornamentation. The elliptical cross section inherently offers a varied fluid flow pattern when compared to the circular shape described in Hager et al. In this regard, an elliptical cross section inherently has a wide portion and a narrow portion, as compared to the symmetrical configuration inherent in a circular design. In one aspect, this feature allows a user to experience a varied, but predictable, fluid flow pattern that depends on the orientation of the bottle as the fluid is poured out. The cited references neither teach nor suggest this feature or the associated limitation in the claims. Accordingly, for at least

this reason, Applicant respectfully submits that the amended claims overcome the Examiner's rejection.

Claims 13-17 stand rejected as obvious over Becker in view of Ota et al. or Carew et al. Becker depicts a head portion that is substantially circular, as shown in FIGS. 1 and 2 of that patent. Neither Ota et al. nor Carew et al. depict a bottle with a head portion, nor do any of the cited references teach or suggest this claimed limitation. Because the elliptical shape of the head portion is not mere ornamentation and inherently offers a varied fluid flow pattern when compared to a circular shape, as discussed above, Applicant respectfully submits that for at least this reason the amended claims overcome the Examiner's rejection.

Claims 13-17 stand rejected as obvious over either Ota et al. or Carew et al. in view of either Becker or Hager. The amended claims are distinguishable from any combination of these cited references for the at least the reasons stated above. For instance, none of these references teach or suggest an elliptical cross section of a head portion; a feature that is not mere ornamentation. Accordingly, Applicant respectfully submits that for at least this reason the amended claims overcome the Examiner's rejection.

Claim 19 stands rejected as obvious over any of the rejections of Hager, Becker, Ota and Carew and further in view of JP 952570. As shown in the last figure of JP 952570, the head of device depicted is not elliptical. Claim 19 depends from amended claim 13, which is respectfully submitted to be patentable for at least the reasons described above. Accordingly, it is respectfully submitted that dependent claim 19 is in condition for allowance.

Claims 13-17 stands rejected as obvious over EP 0879765 or alternatively, EP 0879765 in view of either Bonnebat et al. or Farrell. EP 0879765 describes a container having a generally cylindrical lower body portion, a mouth at the upper end, and a patterned portion therebetween.

The patterned portion is described as “a substantially spherical portion”. Because the patterned portion is not an elliptical portion, the EP 0879765 reference suffers the same deficiency as the other references cited above. Neither Bonnebat et al. nor Farrell overcome this deficiency, as they are directed toward molding methods and processes. Hence, these references do not teach or suggest the limitation of an elliptical cross section as required by the present claims. For at least this reason, it is respectfully submitted that the obviousness rejection has been overcome.

Claims 15-16 stand rejected as obvious over EP 0879765 in view of either Ota or Carew. Claims 15 and 16 depend from amended claim 13, which is respectfully submitted to be patentable for at least the reasons set forth above. Accordingly, it is respectfully submitted that dependent claims 15 and 16 are patentable for at least the same reasons.

Claim 19 stands rejected as obvious over EP 0879765 in view of JP 952570 or Kolb. Kolb is a design patent that teaches a combination dispensing bottle and toy, but this design lacks the necessary limitation of a head portion having an elliptical cross section, as claimed in the pending application. Moreover, claim 19 depends from amended claim 13, which is respectfully submitted to be patentable for at least the reasons described above. Accordingly, it is respectfully submitted that dependent claim 19 is patentable for at least the same reasons.

Based on the foregoing, favorable consideration and allowance of the claims is solicited. If necessary, the Commissioner is hereby authorized in this and concurrent replies to charge

payment (or credit any overpayment) to Deposit Account No. 50-2298 for any additional required fees.

Respectfully submitted,

4/3/06



Mitchell P. Brook

Attorney for Applicant(s)

Reg. No. 32,967

c/o LUCE, FORWARD, HAMILTON  
& SCRIPPS LLP  
11988 El Camino Real, Suite 200  
San Diego, California 92130  
Telephone No.: (858) 720-6300

2998650.2